

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7450

BILL NUMBER: HB 1515

NOTE PREPARED: Jan 21, 2013

BILL AMENDED:

SUBJECT: Substitute Natural Gas Contracts.

FIRST AUTHOR: Rep. Crouch

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill defines "savings" for purposes of a substitute natural gas (SNG) purchase contract. It amends the definition of "purchase contract". It defines "shortfall".

The bill requires the Indiana Finance Authority (IFA) to submit a final purchase contract, including amendments, and any other agreements with a producer of SNG to the Indiana Utility Regulatory Commission (IURC). It requires the IFA to determine on a three year cycle if savings or shortfall has occurred under a purchase contract. It requires the IFA to electronically submit its findings to the IURC. It requires the IURC to verify and approve the findings and, if there is a shortfall, order a producer of SNG to provide a refund to the IFA within 60 days. It requires the IFA to distribute the refund to retail end use customer within 60 days after receipt of the refund.

Effective Date: Upon passage; March 24, 2009 (retroactive).

Explanation of State Expenditures: (Revised) The Indiana Finance Authority (IFA) entered into a purchase contract with the SNG producer in November 2011 under the authority of IC 4-4-11.6. Among other provisions, this contract includes a guarantee of savings clause pursuant to IC 4-4-11.6-7(3). The guarantee of savings clause requires the SNG producer to make a determination of any savings shortfall not later than 30 years after commercial production begins and, upon determining that a shortfall has occurred, make a payment of the shortfall amount to retail end-use customers.

The bill retroactively amends IC 4-4-11.6, effective March 24, 2009, and requires the final purchase contract submitted by the IFA to the IURC to include any amendments, addenda, or other modifications made or added

to the contract at any time and any other agreements entered into between the IFA and the SNG producer. The amendments also specify that the purchase contract grant regulated energy utilities the right to enforce the contract as third-party beneficiaries. With respect to the guarantee of savings under the purchase contract, the amendments require the IFA to make a determination every three years whether a savings or a shortfall has occurred. The amendments specify that a shortfall arises when the purchase price for SNG under the purchase contract is greater than the three-year average market price of natural gas during the particular three-year determination period. If a shortfall arises, the amendments require the SNG producer to make a payment to retail end-use customers in the amount of the shortfall.

The validity of the contract entered into in November 2011 is the subject of pending litigation. This bill may require additional contract negotiations, administrative review, and legal costs. This fiscal impact is contingent on the decisions made in response to the changes in this bill.

Background: I.C. 4-4-11.6 permitted the IFA to enter into contracts for the purchase and sale of substitute natural gas (SNG) from coal gasification facilities to regulated energy utilities for delivery to retail end-use customers. It required that before July 1, 2009, the facility must apply for a federal loan guarantee through the U.S. Department of Energy's Loan Guarantee Program Office for the financing of the facility. It also required the IFA to establish the SNG Account . The SNG Account consists of payments made by retail end-use customers to the IFA through regulated energy utilities for costs associated with the purchase and delivery of SNG.

The IFA entered into a 30-year purchase contract with Indiana Gasification, LLC, a subsidiary of Leucadia National Corporation, to purchase 38 million MMBtus of SNG. The contract was approved by the IURC in November 2011. The natural gas marketplace has experienced changes in SNG pricing since the inception of this project. This led to disagreements between various parties impacted by this contract. Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company, et. al. filed a lawsuit against the two parties to the contract. On October 30, 2012, the Indiana Court of Appeals reversed the IURC's order approving the SNG purchase contract between IFA and Indiana Gasification, LLC.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IFA; OUCC; IURC.

Local Agencies Affected:

Information Sources: <http://www.in.gov/ifa/2695.htm> , Indiana Finance Authority.

Fiscal Analyst: Jim Landers, 317-232-9869.